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Date: January 23, 2006

To: Regional Comprehensive Plan Task Force

From: Jacob Lieb, Acting Lead Regional Planner, (213) 236-1921

Subject: CEQA Reform Update

SUMMARY

The Regional Comprehensive Plan (RCP) Task Force has played a key role in the development of regional planning concepts currently being discussed in various legislative forums in Sacramento. The purpose of this report is to update the task force on most recent developments within those discussions.

BACKGROUND

The Schwarzenegger Administration has concluded the formal efforts of its CEQA Advisory Group. Over the course of the group's deliberations during the last year, the charge from the administration has expanded to include not only housing development and environmental protection, but also, more generally, planning, development and transportation issues. The basic premises involved in the discussions are that a statewide planning and regulatory scheme should facilitate the following:

- Housing production adequate to meet the statewide, regional, and local need
- Protection of the environment focusing on habitat and open space
- Protection of productive farmland
- Orderly and efficient land use and development that facilitates transportation and air quality performance

Further, these basic objectives should be met by undertaking planning processes that are geared to meet distinct, quantifiable performance standards for housing, environmental protection, and transportation. Finally, the working group process has sought to bring forward finance proposals that support these various activities.

As the Task Force is aware, the central concept within the various circulated proposals is that a planning process at the regional level can serve to guide the allocation of incentive resources to the local level and can confer various other benefits for local agencies that choose to implement the regional plan. Among those benefits would be the ability to use an alternative CEQA process that requires less analysis of potential project level impacts. Within SCAG, the on-going development of the Regional Comprehensive Plan would be the vehicle for this potential new State program.

While the Administration-led working group process is complete, SCAG is continuing to pursue

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legislative change in various venues. Senator Don Perata has drafted amendments (attached) to his pending SB 832 that would incorporate concepts described here. At the same time, the Senator has asked various stakeholders to continue working on negotiated provisions that might be included in his bill. To that end, SCAG has been participating with the California League of Cities, the California State Association of Counties, and various environmental groups to refine the existing SB 832 language. Staff will update the Task Force on these discussions at the January 23 meeting.

Further, Senator Perata has included various types of incentive funds in his infrastructure bond measure (SB 1024). SCAG has sought various changes to the provisions of that bill, including increasing the amount of money available to local government. In all finance discussions, SCAG has argued that permanent mechanisms should be created, and that one time funding, such as the bond, should serve as a model for an on-going funding system.

ATTACHMENTS

AB 832 Draft Amendments

Regional Growth Plan Working Outline (SCAG staff)

REGIONAL GROWTH PLAN REQUIREMENTS

January 2006

Regional Growth Plan Performance Standards

- Net reduction in VMT/household of a specified amount
- Full accommodation of existing and projected need for housing for all income groups
- Land use efficiency standards including:
 - Maximum density for non-urban area at 1 unit to 40 acres
 - Maximum new urban acre increase in relation to population increase (e.g. to more than 1 acre to 15 persons)
- Air Quality conformity
- Water quality TMDL compliance

Regional Growth Plan Contents Requirements

- Identification of strategic growth areas
- Identification of housing needs for each locality
- Identification of farmland that supports productive agriculture
- Identification of critical and important habitat, open space, and sensitive resources
- Identification of measures to achieve air quality
- Identification of measures to achieve water quality
- Development standards including densities, floor area ratios, and regulatory measures for various types of urbanization
- Mitigation standards applicable for various types of urbanization and individual projects
- Performance modeling and certification
- Specific measures to protect environmental resources, including, at a minimum, the following
 - Permanent protection of critical habitat and open space including identification of funding for this purpose OR the completion of an NCCP covering the plan area
 - Protection of agricultural uses as a sustainable economic activity
 - Requiring participating jurisdictions to take measures to prevent “leapfrog” development and large lot subdivisions

Measures for program accountability and enforceability, including

- Periodic progress reporting on plan performance at both the plan (regional) and participating local level
- Require discreet policy action (resolution or ordinance) for local agencies to “opt in” to the program
- Plan is self-certified by regional entity. Plan certifications are subject to third party challenge and judicial review
- Urban/non-urban designations can change only every 10 years

Eligibility/consistency requirements for participating local jurisdictions including

City/county is eligible for incentives associated with the regional growth plan if either of the following applies:

- City undertakes specific activities identified in the plan, confirmed by the regional agency

OR

- City meets specified performance criteria specified in statute including:
 - VMT/household reduction
 - Population and development density meeting specified threshold

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AMENDMENTS TO SENATE BILL NO. 832
AS AMENDED IN SENATE MAY 4, 2005

Amendment 1

In line 1 of the title, insert:

[insert new section numbers]

Amendment 2

On page 2, line 1 after "SECTION 1." insert:

Section 65458 is added to the Government Code to read:

65458. (a) A city or a county may adopt a Neighborhood Housing Opportunity Plan provided that it meets all the following requirements:

(1) The plan is adopted as a specific plan pursuant to sections 65450 – 65456.

(2) The planning area is located in a neighborhood, central business district, transit village planning area or major arterial corridor within an urbanized area and within an area designated by a regional growth plan for urban development.

(3) The plan area provides that the land uses in the plan area are predominantly housing.

(4) The plan specifies the location, height, and approximate square footage and footprint of buildings; the building intensity; the maximum number of residential units; a range of square feet for retail or offices uses; and the areas dedicated for open space and recreation. The plan shall contain a parking strategy and may include provisions for shared parking facilities.

(5) The plan provides that pedestrians in the area have convenient access to a major transit stop, either existing or set forth as a feature of the plan.

(6) The plan provides that the average density of the residential units in the plan area is at least 18 units per acre.

(7) The plan provides that at least 20 percent of the housing in the plan area will be affordable to families of moderate income, or not less than 15 percent of the housing will be rented to families of low income, or not

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less than 10 percent of the housing will be rented to families of very low

income. All provisions for housing for moderate income, low income or very low income shall apply for at least 30 years.

(8) The plan shall contain provisions to mitigate the displacement of low income and very low income persons resulting from implementation of the plan.

(9) The plan shall not allow housing within one-quarter mile of an existing, heavy industrial facility.

(10) (A) The planning process shall provide residents of the plan area and the surrounding area all legally required notices and conduct a public outreach program that includes, at least, public notices, fact sheets, workshops and information meetings within the plan area and written materials in languages commonly spoken in the plan area and the surrounding area.

(B) All notices, fact sheets, workshops and information meetings shall inform area residents of the proposed contents of the plan and specifically state that, after the plan is adopted, there will not be further environmental review by the planning commission or city council of housing projects that conform to the plan.

(b) (1) Except as provided under Subdivision (c), and under the Subdivision Map Act (Section 66400 of the Government Code et. seq.), any project for the construction housing units that is consistent with an adopted Neighborhood Housing Opportunity Plan may proceed by right without any further discretionary review.

(2) A city, county, or city and county, retains the authority to review or condition projects for retail or office uses to assure compliance with the public health, safety and welfare.

(3) A city may require, by ordinance or by provisions of the plan, design review or site review of housing projects but such review may not delete or change any of the plan provisions adopted pursuant to subdivision (a). Site review and design review may be conducted by a legislative body or a planning commission, but shall be completed within 60 days of the receipt of a completed application.

(4) Site review authorized pursuant to this subdivision shall be limited to review of the location of physical changes on the site, such as setbacks and driveway, parking, lighting and landscaping, and design review conducted pursuant to this subdivision shall be limited to review of the appearance of buildings and other physical structures, including signs.

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(c) A plan shall be valid for five years from the time of its adoption, and the legislative body may extend the life for an additional 5 years prior to

its expiration if there has not been a substantial change in the circumstances in and around the plan area. A legislative body may vest the approval of an individual project that has been approved during the life of the plan with the right to construct the project for five years from the date of approval of the project even if the plan expires prior to the conclusion of the vesting period.

(d) For the purposes of this section, the following definitions shall apply:

(1) "Neighborhood" means a predominantly developed area within a city identified by a commonly used name, possessing commonly acknowledged geographic boundaries and sharing common political, commercial, social, cultural, religious, or educational institutions and having not more than approximately a one-half mile radius.

(2) "Central business district" is the historic center of commerce and government for a community, characterized by a compact, cohesive core of previously developed commercial and mixed use buildings, often interspersed with civic, religious, and residential buildings and public spaces, typically along a main street and intersecting side streets and served by public infrastructure. At least two-thirds of the structures are commercial or commercially zoned buildings and have a pedestrian scale and orientation including such elements as ground floor storefronts; and reduced front setbacks.

(3) "Heavy industrial facility" means a facility where there is ongoing industrial activity covered by Standard Industrial Code number xxx, where the facility is a stationary source subject to the permit requirements of Division 26 of the Health and Safety Code (commencing with section 39000), and where the facility generates more than 100 tons of hazardous waste per year.

(4) "Major arterial corridor" means at least a 4 lane surface street within a city with predominantly developed commercial uses along it, serving as a collector for local traffic and as an access to regional or sub-regional highways and freeways. A major arterial corridor includes the street, and the land uses adjacent to and in the immediate vicinity of the street.

(5) "Regional Growth Plan" means a plan that complies with Government Code section 65099.

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(6) "Transit village planning area" means a previously developed area in compliance with sections 65460.2 and 65460.4.

(7) The terms "infill," "major transit stop," and "urbanized area" have the same meaning as those terms in Division 13 of the Public Resources Code (commencing with section 21000).

SEC.2. Chapter 2.8 (commencing with Section 65099) of Division One is added to the Government Code to read:

Chapter 2.8 Regional Growth Plans

65099 (a) A regional agency may adopt a Regional Growth Plan to provide a framework and guide for local agency land use plans and decisions and to analyze the regional impacts and needed mitigation for projects consistent with the plan. The plan shall be adopted as the preferred growth strategy for the region and used as the basis for the land use allocation for the regional transportation plan.

(b) The plan shall include all of the following:

(1) Measures needed to meet the requirements of federal law related to regional transportation plans, including but not limited to those necessary for findings of air quality conformity.

(2) Measures that will reduce traffic congestion and vehicle miles traveled per household within the planning region. These measures shall include land use and transportation management strategies necessary to accommodate projected population growth and transportation needs over at least a 20-year period

(3) Land use planning designations that designate areas for growth to accommodate the expected population increase and income distribution within the planning region. The Regional Growth Plan shall be designed to achieve increased average density for new development in areas designated for residential uses.

(4) Land use policies to identify and protect wildlife habitat, wildlife corridors, and other natural resource, agricultural, and scenic areas. These policies shall be designed to reduce habitat fragmentation, preserve viable agricultural resources, and provide sustainable wildlife habitat reserves, open space and parkland.

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(b) The Resources Agency shall establish minimum standards for eligibility for state planning and infrastructure incentive funding. At a minimum, these standards shall require a regional growth plan to demonstrate all of the following:

(1) The plan was developed using a scenario planning process that compared the future projected growth based on current growth patterns with projected growth based on alternative land use and transportation

management strategies designed to reduce the adverse environmental and community impacts of transportation and other aspects of growth.

(2) The plan was developed with significant citizen involvement.

(3) The plan achieves significant reduction in vehicle miles traveled per household. "Significant reduction" means a reduction of at least 5% from levels at the time the plan is adopted. The regional agency may establish higher minimum requirements for "significant reduction."

(4) The plan reduces the impact of future growth in the region by significantly increasing average density of new development. The agency shall establish minimum requirements consistent with the physical and economic circumstances of the region.

(5) The natural resource component of the plan provides long term, sustainable protection to natural resources and agriculture in the region, and is consistent with and supports the implementation of existing NCCP's, habitat conservation plans, and other state developed or approved natural resource protection or open space plans.

(c) "Regional agency" means a federally designated metropolitan planning organization for a region of greater than one million population. It is the intent of the Legislature that standards and procedures for the designation of regional agencies in areas of less than one million in population shall be enacted by statute not later than January, 2007.

(d) [add provision for funding that incorporates Section 65456]

SEC. 3. Section 21061.0.5 of the Public Resources Code is amended to read:

21061.0.5. "Infill site" means a site in an urbanized area that meets either of the following criteria:

(a) (1) The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the

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remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses; and

(2) the site has not been developed for urban uses and no parcel within the site has been created within the past 10 years, unless the parcel was created as a result of the merger of previously existing parcels to implement the plan of a redevelopment agency.

(b) The site has been previously developed for qualified urban uses.

SEC. 4: Section 21071 of the Public Resources Code is amended to read:

21071. "Urbanized area" means the following:

(a) An incorporated city that meets one of the following criteria:

(1) Has a population of at least 100,000 persons.

(2) Has a population of less than 100,000 persons if the population of that city and not more than two contiguous incorporated cities combined equals at least 100,000 persons.

(3) Has a population density of at least 5000 persons per square mile and is surrounded by any combination of other cities, the ocean, or a bay.

(b) An unincorporated area that satisfies the criteria in both paragraph (1) and (2) of the following criteria:

(1) Is ~~either of the following:~~

~~—(A) Completely surrounded by one or more incorporated cities, and both of the following criteria are met:~~

~~(i2) The population of the unincorporated area and the population of the surrounding incorporated city or cities equals not less than 100,000 persons.~~

~~(ii) The population density of the unincorporated area at least equals the population density of the surrounding city or cities.~~

~~—(B) Located within an urban growth boundary and has an existing residential population of at least 5,000 persons per square mile.~~

~~For purposes of this subparagraph, an "urban growth boundary" means a provision of a locally adopted general plan that allows urban uses on one side of the boundary and prohibits urban uses on the other side.~~

~~—(2) The board of supervisors with jurisdiction over the unincorporated area has previously taken both of the following actions:~~

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~~—— (A) Issued a finding that the general plan, zoning ordinance, and related policies and programs applicable to the unincorporated area are consistent with principles that encourage compact development in a manner that does both of the following:~~

~~—— (i) Promotes efficient transportation systems, economic growth, affordable housing, energy efficiency, and an appropriate balance of jobs and housing.~~

~~—— (ii) Protects the environment, open space, and agricultural areas.~~

~~—— (B) Submitted a draft finding to the Office of Planning and Research at least 30 days prior to issuing a final finding, and allowed the office 30 days to submit comments on the draft findings to the board of supervisors.~~

~~—— (b) An unincorporated area that satisfies the criteria in both paragraph (1) and (2):~~

~~(1) Is completely surrounded by one or more incorporated cities, and~~

~~(2) The population of the unincorporated area and the population of the surrounding incorporated city or cities equals not less than 100,000 persons.~~

(c) On or before January 31 of each year, the Office of Planning and Research shall publish and post on its website a list of the cities and unincorporated areas that qualify as urbanized areas under the definitions in this section.

SEC. 5. Section 21081.1 is added to the Public Resources Code to read:

21081.1. If a residential project, not exceeding 150 units with a density of at least 20 units per acre, located on an infill site in a city in an urbanized area, is in compliance with the traffic, circulation and transportation policies of any applicable plan or ordinance of the local government, and the local government requires the mitigation measures approved in a prior certified environmental impact report applicable to the project or the area of the project to be incorporated into the project, a local government is not required to comply with subparagraph (1) or (2) of paragraph (a) of Section 21081 for the traffic capacity impacts of that project on intersections, streets, highways, or freeways. Nothing in the foregoing restricts the authority of a local government to adopt feasible mitigation

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measures with respect to the impacts of a project on pedestrian or bicycle safety.

SEC. 6. Section 21093.1 is added to the Public Resources Code, to read as follows:

21093.1 (a) A short form environmental impact report may be utilized for a residential project on an infill site that is consistent with the preferred growth strategy for a region as set forth within a regional growth plan authorized and approved pursuant to section 65099 of the Government Code. The short form environmental impact report shall rely upon the certified environmental impact report prepared for a regional growth plan that meets all of the requirements of section 65099 of the Government Code.

(b) Notwithstanding any other requirements in this division, the short form environmental impact report need not re-evaluate the following impacts:

(1) the direct regional and cumulative regional impacts of the growth patterns identified in the approved regional growth plan;

(2) the regional and cumulative regional traffic and circulation impacts associated with the regional transportation policies and strategies identified in the approved regional growth plan; and,

(3) the regional and regional cumulative air quality impacts associated with the preferred growth strategy identified in the approved regional growth plan.

(c) A short form environmental impact report prepared pursuant to this section need not evaluate alternative offsite locations for the proposed residential project.

(d) (1) The lead and responsible agencies with authority to mitigate the significant effects of a proposed residential project shall make the required finding in subparagraph (a)(1), or subparagraph (a)(2) of section 21081 that changes or alterations have been required in, or incorporated into, the proposed project that have been recommended in the certified environmental impact report prepared for the approved regional growth plan

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for individual projects in order to reduce or avoid the regional impacts on growth, transportation, and air quality.

(2) By making the finding in subparagraph (1), a lead or responsible agency is not required to make any additional findings under Section 21081 for the regional environmental impacts set forth in Subdivision (b), and for the feasibility of alternative offsite locations. Nothing in this section affects any requirement to make findings under section 21081 for those significant effects identified in a short form environmental impact report for a proposed residential project.

(e) Except as specifically provided above in subdivisions (a) through (c), the short form environmental impact report prepared under this section shall comply with Division 13 of the Public Resources Code (commencing with section 21000).

(f) For purposes of this section, "residential project" means a proposed residential development project or a mixed commercial and residential development project.

SEC. 7: Section 21159.23 of the Public Resources Code is amended to read:

21159.23. (a) This division does not apply to any development project that consists of the construction, conversion, or use of residential housing consisting of 100 or fewer units that is affordable to low-income households if both of the following criteria are met:

(1) The developer of the development project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.

(2) The development project meets all of the following requirements:

(A) The project satisfies the criteria described in Section 21159.21.

(B) The project site meets one of the following conditions:

(i) Has been previously developed for qualified urban uses

(ii) The parcels immediately adjacent to the site are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25 percent of the perimeter of the site adjoins parcels that have previously been

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developed for qualified urban uses, and the site has not been developed for urban uses and no parcel within the site has been created within 10 years prior to the proposed development of the site.

(C) The project site is not more than five acres in area.

(D) The project site is located within an urbanized area or within a census-defined place with a population density of at least 5,000 persons per square mile or, if the project consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.

(b) A project of up to 150 units that otherwise satisfied the criteria in subdivision (a) that is located in a city with a population of at least 150,000 persons is exempt from this division if the legislative body of the city has adopted a resolution authorizing projects of up to 150 units to be exempt.

~~(bc)~~ Notwithstanding subdivision (a), if a project satisfies all of the criteria described in subdivision (a) except subparagraph (D) of paragraph (2) of that subdivision, this division does not apply to the project if the project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile.

~~(ed)~~ Notwithstanding subdivision ~~(bc)~~, this division applies to a project that meets the criteria of subdivision ~~(bc)~~, if there is a reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.

~~(d)~~ (e) For the purposes of this section, "residential" means a use consisting of either of the following:

(1) Residential units only.

(2) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15 percent of the total floor area of the project.

Amendment 3

On page 2, line 9, after "site" insert:

or an office project in a central business district site

Amendment 4

On page 2, line 20, strike out "200,000" and insert:

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150,000

Amendment 5

On page 2, line 25 after “units” insert:

or more than 100,000 square feet of office building or a combination of office and residential uses not exceeding a total of 100,000 square feet.

Amendment 6

On page 2, strike lines 27 through 29 and insert:

than 150,000 persons, the project does not contain more than 300 units or 300,000 square feet or a combination of office and residential uses not exceeding 300,000 square feet as determined by resolution of the city council.

Amendment 7

On page 3, line 36 after “projects” insert:

, on-site project alternatives

Amendment 8

On page 4 between lines 3 and 4 insert:

SEC. 8. Section 21159.24.5 is added to the Public Resources Code to read:

21159.24.5. This division does not apply to a project, including without limitation, a subdivision map, a conditional use permit, design review or site review for the project that is consistent with a Neighborhood Housing Opportunity Plan.

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